1899

SUPREME COURT OF THE UNITED STATES.

No. 288.

THE UNITED STATES, APPELLANTS,

vs.

VICENTE DE LA OSA AND AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

GOVERNMENT PRINTING OFFICE.

SUPREME COURT OF THE UNITED STATES.

No. 288.

THE UNITED STATES, APPELLANTS,

vs.

VICENTE DE LA OSA AND AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

INDEX.

	Original.	Print.
Transcript from board of U. S. land commissioners	1	1
Appeal	35	18
Transfer from northern district	36	18
Petition for review	39	20
Summons	43	21
Answer	45	22
Decree	47	23
Appeal	49	24
Certificate	51	24

1 *Transcript of the proceedings in case No.* 379.

VICENTE DE LA OSA *et al.*, claimants,
vs.
THE UNITED STATES, defendant.
} For the place named "Encino."

2

3 OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

Be it remembered, that on this eighth day of October, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Vicente de la Osa *et al.*, for the place named "Encino," was presented and ordered to be filed and docketed with No. 379, and is as follows, to wit:

(*Vide* page 3 of this transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

LOS ANGELES, *November* 3*d*, 1852.

In case No. 379, Vicente de la Osa *et al.* for the place named "Encino," the deposition of Agustin Olvera, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, with document marked H. H. No. 1, and translation thereof marked B & D, annexed thereto, was filed.

(*Vide* page 7 of this transcript.)

In the same case the deposition of Saturnino Reyes, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, was filed.

(*Vide* page 5 of this transcript.)

4 SAN FRANCISCO, *September* 1, 1853.

In the same case the deposition of J. J. Warner, a witness in behalf of the claimants, taken before Commissioner Thompson Campbell, with documents marked "A & B, Thompson Campbell," was filed.

(*Vide* page 8 of this transcript.)

SAN FRANCISCO, *November* 28, 1854.

Case No. 379 was ordered to be placed at the foot of the 3d class cases on the trial docket.

SAN FRANCISCO, *December* 19, 1854.

Case No. 379 was submitted under the rule of 21st March, 1854.

SAN FRANCISCO, *March* 20, 1855.

In the same case Commissioner Alpheus Felch delivered the opinion of the board confirming the claim.

(*Vide* page 35 of this transcript.)

And the following order was made, to wit:

(*Vide* page 37 of this transcript.)

5 *Petition.*

To the honorable the United States commissioners to ascertain and settle land claims in the State of California:

Your petitioners, Vicente de la Osa, for himself and for Aguila, widow, and Francisco, minor son, legal heirs of Roque, deceased, and for Rita, minor daughter and only legal of Francisco, deceased, all residents of the county of Los Angeles, State of California, represents, that there was granted by Pio Pico, as governor of California, and possessed of sufficient power in the premises, by deed of concession in fee simple, bearing date July 18, 1845, the place of the "Encino," to the natives Roman, Francisco and Roque; that judicial possession was given to said grantees July 24, 1845, and that all the conditions of said grant have been by the same fulfilled; that on the 30th day of October, 1849, your petitioner purchased one-third part of said place of the "Encino" of said Roman, and that since said deed of conveyance to your petitioner, the said Francisco and Roque, original grantees, have died, leaving in joint possession of said rancho the parties first above stated; that there are no conflicting or interfering claims. The land has never been surveyed by the United States surveyor general for California.

The land granted as aforesaid is bounded and described as follows: Beginning at the slope of the San Fernando mountain at a landmark there placed, running north 5,000 varas, bearing in the plain to a landmark; thence northwest 5,000 varas in the same plain to a

6 corner mark; thence in a direction southerly, so as to square the land in the mountain, 5,000 varas to a corner mark; thence easterly over broken ground 5,000 varas to the place of beginning, containing one league of grazing land, lying in the county of Los Angeles.

Your petitioner relies upon the following documentary evidence to support said claim, filed with the secretary of your honorable board:

1st. Copy of original grant, marked "H," accompanied by translation marked 1.

2d. Copy of act of juridical possession, marked B, accompanied by translation.

3d. Copy of deed of conveyance to your petitioner, marked C.

Your petitioners will rely upon such other documentary evidence and parol testimony as may be necessary to support said claim, and he prays for himself, Aguila and Francisco, heirs of said Francisco and Rita, heirs of said Roque, that your superior wisdom and justice will confirm them in their said joint possession and ownership of the ranch of the Encino; and, as in duty bound, &c.

Oct. 8, 1852.

VICENTE DE LA OSA,
By SCOTT & GRANGER.

Filed in office Oct. 8, 1852.
(Signed) GEO. FISHER, *Sec'y.*

7 *Deposition of S. Reyes.*

LOS ANGELES, *Nov. 3d*, 1852.

On this day, before Com'r Hiland Hall came Saturnino Reyes, a witness in behalf of the claimants, Vicente de la Osa, petition No. 379, and was duly sworn, his evidence being interpreted by the secretary.

The U. S. law agent (associate) was present.

In answer to questions by counsel for the claimant the witness testified as follows:

My name is Saturnino Reyes; my age is about thirty-five years, and I reside at Los Angeles. I am acquainted with the rancho Encino; it is situated about six leagues from this place, in a western direction. I don't know who the original owner of the rancho was. I believe it belonged to the mission of San Fernando, and that they granted it to an Indian by the name of Tiburcio. I know the Indians of the mission by the name of Roman, Francisco and Roque. Francisco and Roque married daughters of Tiburcio, who is dead. Francisco is dead, and Roque left for the mines, and has been absent for four or five years, and it is reported that he is dead. The name of Francisco's wife was Paula; she is also dead. Francisco left a daughter at his decease by the name of Rita. The daughter Rita may be twenty-four years of age at this time. She lives on the rancho Encino. The name of the wife
8 of Roque is Aguida; she is living on the rancho. Roque has one son living named Francisco; he is about seven years old. The wife or widow has two other children, one of whom, named Andres, is about four or five years old; of another a few weeks old, not supposed to be the child of Roque. The Indian Tiburcio occupied the land about twelve years ago; he lived on it and cultivated the ground, and had forty or fifty head of cattle. Romano, and Francisco and Roque lived on the place with him until his death, and they or their families have lived on the place to the present time. They have cultivated the ground and had some thirty head of cattle.

Questions by the associate law agent.

How many cattle do you think the rancho would support, being a square league?

Answer. The land has but one small watering place, and might support five hundred head.

his
SATURNINO + REYES.
mark.

Sworn and subscribed before me.

HILAND HALL.

Filed in office Nov. 3, 1853.
(Signed) GEO. FISHER, *Sec'y.*

9 *Deposition of Agustin Olvera.*

LOS ANGELES, *Nov.* 3*d*, 1853.

On this day, before Com'r Hiland Hall came Agustin Olvera, a witness on behalf of the claimants, Vicente de la Osa *et al.*, petition No. 379, and was duly sworn, his evidence being interpreted by the secretary.

The U. S. associate law agent was present.

In answer to questions by counsel for the claimants the witness testified as follows:

My name is Agustin Olvera; my age is thirty-two years, and I reside in Los Angeles. I am acquainted with the handwriting and signatures of Pio Pico, José M'a Covarrubias, Juan Sepulveda, Luis Jordan, Pedro C. Carrillo and Ignacio del Valle.

A paper is now shown me purporting to be a grant to Roman, Francisco and Roque of a tract of land called Encino, dated 18th of July, 1845, to which is attached a testimonial of judicial possession in July, 1845. Said paper is hereto annexed and marked H. H. No. 1. The names of the said several persons appearing on said paper I believe to be their genuine signatures.

Juan Sepulveda at the time of said judicial possession was second alcalde, and as such had authority to give such possession.

AGUSTIN OLVERA.

Sworn and subscribed before me.

HILAND HALL, *Com'r.*

Filed in office Nov. 3d, 1852.
(Signed) GEO. FISHER, *Sec'y.*

10 *Deposition of J. J. Warner.*

OFFICE OF COMMISSIONER OF LAND CLAIMS IN CALIFORNIA.

This day, before Com'r Thompson Campbell came J. J. Warner, a witness on behalf of claimants, Vicente, de la Osa *et al.*, No. 379, who, after being duly sworn, testified as follows:

What is your name, age and place of residence?

My name is J. J. Warner; I am forty-five years old, and reside at San Diego.

Look at the paper now shown you and marked "A," and state

whether the signatures of Ygnacio del Valle, and look on said paper marked "B," and state whether the signatures Juan Sepulveda, Jesus Guirado, Ygnatio del Valle, are all the genuine signatures.

I have seen them all write and they are all genuine.

J. J. WARNER.

Sworn to and subscribed before me this 1st day of Sept., A. D. 1853.

THOMPSON CAMPBELL, *Com'r.*

Filed in office Sept. 1, 1853.

(S'g'd) GEO. FISHER, *Sec'y.*

11 *Posecion del año de* 1845.

Pic Pico, gobernado interino del departamento de las Californias:

Por cuanto los yndigenas Roman, Francisco y Roque los primeros de la mession de San Fernando y el ultimo de la de Santa Barbara han pretendido para su benificio personal y de el sus familias la propiedad de un terreno que hace tiempo ocupan en el parage del encino, en vertud de concesion hecha pr mi antecesor segun lo demuestra un decreto estampado lu una solicitud de los interesados que han presentado à este gobierno; usando de las facultades que me son conferidas en nombre de la nacion Mejicana he venido pr decreto de este dia en concederles la propiedad de un sitio de ganado mayor y serviendo les de titulo observaran las prevenciones siguientes:

1o. Si concede á los interesados en propiedad un citio de ganado mayor en el paraje del encino.

2o. El juez á cuya jurisdiccion pertenesca dicha terreno clara la posecion juridica disponiendo medir el consedido y mandarà fijar las linderos respectivos haciendo poner señales que siempre los determine.

3o. Los agraciados disfrutaran el terreno de que se les hace donacion, libre y esclusivamento destinandolo al uso ó aprovecham'to que mas les convengan.

Dado en la ciudad de los Angeles, a 18 de Julio de 1845.

PIO PICO.

JOSÉ MARIA COVARRUBIAS, *S'rio.*

12 Queda tomada razon de este superior despacho en el libro respectivo.

F'ha ut supra.

COVARRUBIAS.

En la ciudad de los Angeles del departamento de Californias á los veinte y quatro dias del mes de Julio de mil ochocientos cuarenta y cineo aumente a la solicitud verbal que hisieron los yndigenas Ramon y Francisco y Roque para que se le dè posecion juridica de un terreno que hace tiempo ocupar en el parage del encino concedido por el supremo gobierno departmental fecha diez y vcho del preslute segun lo demuestra el despacho que presente á este gobierno paseo

por mi y vestigos de asistencia al mencionado sitio y procedase à dar la posesion indicada previa citacion de colindantes, arreglandose par ello al titulo respectivo, ase yo Juan Sepulveda alcalde qa decretè mandè y firmè con los de asistencia segun derecho no hay papel sellado.

JUAN SEPULVEDA.
LEONARDO COTA.
BASILIO VALDEZ.

En la fecha peco oficio a los señones colindantes para que concuriesen en sus linderos y lo manifieste el objeto á que me dirigia al punto del encino puesibo aponer en posecion a los indigenas Roman, Francisco y Roque, de este quedaron entendidos sin manifestar ecepcion ninguna y a se pondra por diligencia.

JUAN SEPULVEDA.
LEONARDO COTA.
BASILIO VALDEZ.

En seguida estando en el paraje del eneino nombré dos oficiales condeleros que lo fueron Guillermo Havarro y José Maria
13 Dominguez; lo que aceptaron bajade puramento afreciendo desempeñar fiel y legalmente su lu cargo, lo que se pone por diligencia, que autorizo y firmè con los de asistencia segun derecho; no firmando los cordeleros por no onlceo.

JUAN SEPULVEDA.
LEONARDO COTA.
BASILIO VALDEZ.

En la misma fecho y estando en el parage de San Fernando o su termino del encino, hece medir un cordel constante de cien varas al que mande atar á sus estremos una, sancos de madera y por un disposicion precisa asistencia de mis testigo y oficiales cordeleros se tiró el premér cordel desde de la fálda de una siérra piento sur y se midieron y contaron cinco mil varas que remataron hacia el norte con el llano de San Fernando dondé se pusa un palo que serivése de Mohonera ; aqui se trio el sequndo cordel con direccion al noreste y se medieron y contaron o tros cinco mil varas que remataron en el mismo llano de San Fernando, de aqui y condireccion al sur o olonsarse en la sierra cuadrando el terreno lo mejor ql. se procedin, se midieron y contaron cinco mil varas qui reniataron en la misma sierra donde se mando pruer otro mohonera; de aqui y con direccion al este se tiro el cuarto cordel por las que peruictio la sierra que se midieron y contaron cinco mil vars que remataron dondé lo comenzo, sirvienta do majenera un cerrito con cuatro nogales. En seguida reni diendo los socio dél tercen les di a nomde de la nacion Mejicana el señorio y posecion, segun esta establecide por las leyes con lo que se concluye el acto á satisfacion de los pactes y lo pongo por diligencio que autorize y firme con los de asistencia segunderechi.

JUAN SEPULVEDA.
LEONARBO COTA.
BASILIO VALDEZ.

Hallandome concluidas las procedentes dilizlueias de la posecion del cucino derele testimónio a los purtes para pu resguardo
14 Asi: Yo el Juez que subscribe decieté y maude con los de asistencia segundró.

JUAN SEPULVEDA.

Ass'a: Leonardo Cota.
Ass'a: Basilio Valdez.

En la fecha se le dio el testimonio riepectur rubrico.

Concuerda con su original que se halla en libro de instrumento. publico de este and del que se saco, corrigio y confronte fiel y legalmente en estas cuatro fojas de papel comun por falta de sellado, doy fé, fecha ut supra.

JUAN SEPULVEDA.

Ass'a: Luis Jordan.
Ass'a: Pedro C. Carrillo.

Estado del California,
Condado de los Angeles.

Certifico yo Ygnacio del Valle registrador del condado referido que los documentos que anteseden los entrego en esta oficina para su registro agueda natural de la mision de San Fernando, a los deiz de la manaña de hoy 5 de Abril, de 1851, quedan asentados en el libro primero de registros de escrituras de traspados é hipotecas d. desde vuelta de fojas 143 á vuelta de 144 y despues de hecho el asiento respectior se devuelvan a la misma Agruda.

En cuyo testimonio subsribo mo nombre y ponga mi sello oficial en la cuidad de los Angeles y fecha citada.

YGNACIO DEL VALLE.

Filed in office Nov. 3rd, 1852.

GEO. FISHER, *Sec'y.*

15 *B.—Translation of A.*

Pio Pico, ad interim governor of the department of the Californias.

Whereas the natives Roman, Francisco and Roque, the two first of the mission of San Fernando, and the last of that of Santa Barbara, have pretended, for their personal benefit and that of their families, for the right of property in the land which they have for some time occupied in the place of the Encino, by virtue of a grant made by my predecessor, as a decree, stampt on a petition of the parties interested, which they had presented to this government, exhibits: Exercising the powers conferred upon me, I have in the name of the Mexican nation concluded, by a decree of this day, to grant them the right of property to one league of grazing land, and the present serving them for title, they shall observe the following rules:

1st. One league of grazing land in the place of the Encino is conceded to the parties interested.

2d. The judge to whose jurisdiction said land belongs shall give the juridical possession, ordering the grant to be measured, and he shall command the respective boundaries to be fixed, causing them to place landmarks, which shall always determine the same.

3d. The grantees may farm the land, of which grant is made them, freely and exclusively, devoting it to the use or advantage which may best suit them.

Given in the city of Los Angeles the 18th of July, 1845.

PIO PICO.

JOSE N. MARIA COVARRUBIAS, *Secretary.*

Account of this superior despatch is taken in the respective book, date as above.

COVARRUBIAS.

Filed in office Oct. 8, 1852.

(Signed) GEO. FISHER, *Sec'y.*

D.—Translation of C.

16 In the city of Los Angeles, of the department of the Californias, at the 24th day of the month of July, 1845.

Complying with the verbal request which the natives, Roman, Francisco and Roque, have made, that judicial possession be given them of the land which they have for some time occupied in the place of the Encino, granted by the superior departmental government at date of the 18th of the present month, as the despatch which is presented to this court shows:

Ordered, to pass myself and assistant witnesses to the aforesaid tract, and proceed to give the possession indicated, after previous notice to the adjoining land claimants, being governed for that purpose by the respective title. Thus I, Juan Sepulveda, 2d alcalde, decreed, ordered and signed, with the witnesses, according to law. There is no sealed paper.

JUAN SEPULVEDA.

LEONARDO COTA,
BASILIO VALDEZ.

At date, I gave notice to the adjoining land claimants that they should assemble at their boundaries, and I explained to them the object which had directed me to the point of the Encino, viz: that I went to put in possession the natives, Roman, Francisco and Roque; of this they remained cognizant without manifesting any exception, and it is set down for a proceeding.

JUAN SEPULVEDA.

LEONARDO COTA,
BASILIO VALDEZ.

17 In continuance, being in the place of the Encino, I appointed two official cord-bearers, who were Guillermo Navarro and José Maria Dominguez, which they accepted under oath, agree-

ing to discharge faithfully and legally their trust, which I set down for a proceeding authorized, and sign with the assistance according to law; the cord-bearers not signing, because they did not know how.

JUAN SEPULVEDA.

LEONARDO COTA.
BASILIO VALDEZ.

At the same date, and being in the place of San Fernando or its land, the Encino, I caused a cord to be measured containing one hundred varas, and to its extremities I ordered some wooden stakes to be attached; and for measuring the possession, after previous assistance of my witnesses and official cord-bearers, the first cord was stretched from the slope of a mountain pointing south, and there were measured and counted 5,000 varas towards the north, which terminated in the plain of San Fernando, where a pole was set, serving for a landmark; thence the second cord was stretched in a direction to the northwest, and there were measured and counted other 5,000 varas, which terminated in the same plain of San Fernando; thence and in direction to the south, for the purpose of locating in the mountain, squaring the land the best that it could be done, there were measured and counted 5,000 varas, which terminated in the same mountain, where another landmark was ordered to be placed; thence and in a direction to the east, the fourth cord was stretched over broken ground to where the mountain would permit, and there were measured and counted 5,000 varas, which terminated at the place of beginning, a little mountain, with four walnut trees serving for a landmark.

In continuation, the partners in the land, altogether, the
18 lordship or possession was given them in the name of the Mexican nation, as is established by the laws, whereby the act was concluded to the satisfaction of the parties, and I set it down for the proceedings which I authorized and signed, with the assistants, according to law.

JUAN SEPULVEDA.

LEONARDO COTA and
BACILIO VALDEZ.

The foregoing proceedings, before possession of the Encino, having been concluded, give testimony to the parties for their protection; thus I, the judge that subscribes, decreed and ordered, with the assistants, according to law.

JUAN SEPULVEDA.

LEONARDO COTA and
BACILIO VALDEZ.

The respective testimony was given at the date.

RUBRICO.

It agrees with its original which exists in the book of public instruments of the year from which it is taken, corrected and compared

faithfully and legally on these four leaves of common paper for want of the sealed. I attest. Date as before.

JUAN SEPULVEDA.

Ass'a: LUIS JORDAN.
Ass'a: PEDRO C. CARRILLO.

Filed in office Oct. 8th, 1852.
(Signed) GEO. FISHER.

19 *Exhibit B.*

En la ciudad de los Angeles de la Alta California a los trenta dias del mes de Octubre de mil ochocientos cincuenta y nueve, ante mi Juan Sepulveda, juez segunda de esta misma ciudad los testigos instrumentales que al fui se nombraron y los de mi assistencia con quienes actuo à falta de escribano que no lo hay segun, dr'o paricio presentes los neofitos Roman, Agueda y Rita, aquienes conoseo doy fé y digeron, que por si y à nombre de sus herederos y sucesones y de ql. de ellos hubrése, titulo, vaz y causa en el cual ql. manera seden y tras pasen a D. Vicente de la Osa y à suyos el d'ro egual del que a ellos les correspondendan en su Rancho del Encino patener muchos venificios con ql. estan obligados conel espresado S'or la Osa, en muchos epocas que este S'or les ha sentido sus necessidades, como asi mismo declaran que nuevamente les ha repartido entre los tres otorgantes mencionados la cautidad de cien pesos dandosoles graciosamte en compensa de la que el vendia de ellos asi mismo declaran que el on que le seden en virtud de este Escritura á D'n Vicente de la Osa no lo tienen bendido, enagenado, ni empeñado y que esta libre de memoria, capellerin, vinculo, fianza y otro cualqu'a gravamen, real personal, temporal, especial gral. tacito, ni espreso y como tal se lo seden de su entera y espontanen voluntad repviendose á los venificios con que estan obligados al referido S'or la Osa lo mismo que lo hau manifestado. Ygualmente declara que el d'ro, que seden al agraciado, D. Vicente de la Osa sera cierto seguro y efectivo y se comprometen à que nadie le inquieterà ni movera pléto, en su propiedad posesion gose y difrute y si sele inquietaré movieré o aparesiere luego que les otorgantes sus herederos y sucesones son requeridos conforme à ley saldran à su defensa y sele seguiran
20 a sus espensas en todas instancias y tribunales d'ho ejecutivo viarlo y dejar al S'or la Osa y a sus herderos y sucesores en su libre y su queta y pacifréa posecion y de no poder lo conseguir le daran otro égual d'ro en de citios, frucá, venta y comodidades. Yu la firmesa y validacion de todo lo contenido en la presente escritura obligan los otorgantes sus personas bienes habidos y pr. haber y con ellos se someten al fuero y jurisdicion de los SS. Jueces que de sus asuntos puedan y devan conocer conforme a dr'o paraque a su cumpl'mto los compelan y entrechen por todo rezon legal y via efectiva, remucian todos las leyes de su favor y defensa con la gral del d'ro en forma, y lo reciben como pr. sentencia pasada en autoridad de cosa juzgada, consentida y sen mas recurso. En cuyo testimonio asi lo dijeron y suplicaran los tres otorgantes firmara a su ruezo Don Jesus

Guirado y testigos siendo ynstrumentales á Tomas Sanchez, Don David Alejandro y Dn. Antonio Buelan presentes y vecinos que tambien firmaron doy fé Juan Sepulveda-Arruego de los neofitos Roman, Agueda y Rita pr. no saber firmar. Jesus Guirado ynstrumentales Tomas A. Sanchez, Ynstr. Antonio Buelna Ynst. David de Alejandro, assas Miguel Garciola Ramon Herrera.

Concuenda con su original á que me remito de donde fui fielmente sacado y corregido hoy dia de su otorgamiento en estas dos fojas del papel comun por no usarse del sellado y lo autorizo con testigos de assa en la forma ordinaria de que doy fé.

En testimonio de verdad.

JUAN SEPULVEDA.

Ass'a: RAMON HERRERA.
Ass'a: JUAN GUIRADO.

21 ESTADO DE CALIFORNIA,
Condado de los Angeles:

Certifio yo Ignacio del Valle, registrado del condado, referido que el documento que antecede lo entrego en esta aficuia pr. su registro Bicente de la Osa a los cuatro de la tarde de hoy 4 de Abril, de 1851. Queda aslutada en el libro primero de registros de esenitura de traspasos y hypotecas à fajas vuelta de 141, a vueltá de 142, y se devuelue al mismo la osa.

En cuyo testimonio suscribio me nombre y pongo mi sello oficial en el condado de los en la f'ha citada.

IGNACIO DEL VALLE.

Derechos de registro, ocho pesos.

Filed in office Sept., 1853.

GEO. FISHER, *Sec'y.*

22 *Translation of conveyance, &c.*

In the city of Los Angeles, in Upper California, on the 30th day of October, 1849, before me, Juan Sepulveda, second justice of the said city, the instrumental witnesses, to be named below, and the attesting witnesses, with whom I act for want of a notary, which is not to be had according to law, appeared personally the neophites, Roman, Agueda, and Rita, whom I attest that I know, and state that for themselves, and in the name of their heirs and successors, and whomsoever of them that should have title, vote, and cause in whatever manner, they released and transfer to Don Bicente de la Osa, and his assigns, the equal right of that by which the rancho del Ensigna belongs to them, as being under many obligations to said Mr. Osa for many benefits at various times ; that this gentleman has supplied them with their necessaries, as they likewise declare that he has nearly apportioned between them, the three grantors, the sum of one hundred dollars, giving it them gratuitously in compensation for what he received of them.

They likewise declare that the rights they assign in virtue of this,

and to D. Vicente de la Osa they have not sold, alienated, or pledged, and that it is free of any bill, benifice, entail, bond, or any other encumbrance whatever, be it not personal, temporal, especial, general, tacit or expressed, and as such they cede it of his entire and spontaneous will, making reference to the benefits for which they are under obligation to said Mr. La Osa, as above declared.

They likewise declare that the right which they transfer to the grantee, Don Bicente de la Osa, shall be certain, sure, and effectual; and they engage that nobody shall disturb him, nor see him, or his ownership, possession, fruition, and enjoyment, and if he
23 should be disturbed, sued, or there appear any encumbrance, as soon as the grantors, their heirs and successors, be required conformable to law, they shall stand forth in his defence, and follow it up at their expense, in all instances and tribunals, till obtaining a judgment in his favor, and leaving Mr. Osa, and his heirs and successors, in his free use, quiet, and peaceable possession; and if not able to attain this, they shall give him some other valuable equivalent, either in sitio, building, rent, or comodity; and for the confirmation and validity of all the stipulations in the present deed, the grantors bind their persons, goods which they have or may have, and therewith submit themselves to the forum and jurisdiction of the judges, who of their affairs may and ought to take cognisance conformable to law, so that they may compel and restrict them by all the rigor of law and executive means to its fulfilment.

They renounce all the laws in their favor and defence, together with the formal disabilities at law, and they will admit it as it were a sentence pronounced in authority of a verdict confessed, and without any other resource.

In testimony whereof, they thus declared, and the three grantors prayed that on their request D. Jesus Guirado might sign, and bring instrumental witnesses, Tomas A. Sanchez, Dr. David de Alejandro, and D. Antonio Buelna, who were present, and are residents, and they also put their names.

I attest it.

JUAN SEPULVEDA.

On request of the neophytes, Roman, Agueda, and Rita, who do not know how to sign.

JESUS GUIRADO.

24 Instrumental witnesses:
TOMAS A. SANCHEZ.
ANTONIO BUELUA.
DAVID DE ALEJANDRO.
Attesting witnesses:
M'G'L GARRIOLA.
RAMON HERRERA.

Concurrent with its original, to which I made reference, from which it was faithfully drawn and corrected on the day of its being signed, consisting of these two folios of common paper, and having

stamped paper, and I certify it with the attesting witnesses to ordinary form, which I attest.

In testimony whereof, I subscribe.

JUAN SEPULVEDA.

A'sa : RAMON HERRERA.
JESUS GUIRADO.

STATE OF CALIFORNIA,
County of Los Angeles:

I, Ygnacio del Valle, recorder for the county aforesaid, certify that the foregoing document was delivered in this office for record by Vicente de la Osa, at 4 o'clock in the afternoon, this 4th day of April, 1851.

It has been recorded in book first of records of deeds and mortgages, on folio 141 reverse and 142 reverse, and is returned to said la Osa.

In testimony whereof, I subscribe and affix my official seal, in the city of Los Angeles, on the day aforesaid.

YGNACIO DEL VALLE. [SEAL.]

Fees for recording, $8

Filed in office March 24, 1854.
(Signed) GEO. FISHER, *Sec'y.*

25 *Exhibit A, Thompson Campbell, annexed to deposition of J. J. Warner.*

En la ciudad de Los Angeles, condado del mismo nombre del Estado de California, hoy dia cinco de April, del año de mil ochocientos cincuenta y uno, Yo, Roman, natural de la mission de S. Fernando, del Estado y condado arriba dicho por y en consideracion á la suma de ciento diez pesos que tenzo recibidos á mi entera satisfacion de Vicente de la Osa, y cuyo recibo acuso por esta mismo escritura he venido vender, ceder y traspasar todo el derecho que me corresponde en el terreno que al presente posea en al Rancho del Encino, el cual le fué concedido, por el gobierno del depart'o por titulo librado, en union de los de su clase Francisco y Roque, cuy v der echo que me corresponde al espresado terreno del Encino del mismo, cedo, vendo y traspaso al referido, Vicente de la Osa y à los suyos desde ahora para siempre, tal cano Yo lo posea. Ygualmente entra en la venta el derecho que tenzo à la tierr de siembra, en cuya virtud declaro que no tenzo empeñado, hypotecado ni vendido á otro me repetido derecho sino que se halla libre de todo gravamen e unposicion asezurando al comprador que ninguno les inquietarè ni moverà pleito subre su posecion y dominion y que en el caso que alguno le inquietarè ò moviere pleito por objeto uno. Yo saldrè en su defensa hasta dejarlo en quieta y pacifica posecion. Prometo al mismo tiempo que no por mi ni por otro dtro dire yamas nada en contrario y que esta venta quiero que sea real y verdadera. En cuyo

testimonio me quito y aparto de todo el derecho y de todas las acciones que en dicha terreno me corresponden Y por la presente escritura las transfiero al S'or Vicente de la Osa contodos los usos, costumbres y regalias con que yos los he poseido hasta hoy. Y para
26 la firmesa y valedacion por no saber escribor ponzo mi puño al pio de esta la señal de la cruz en esta cuidad y en la fecha arriba citada. Roque no vale; Roman no vale.

ROQUE ss ROMAN.

ESTADO DE CALIFORNIA,
Condado de los Angeles:

Certifico, Yo, Ygnacio del Valle, registrador del condado, referido que comparecio ante mi por sonalmente Roman, yndigena de la Misim de San Fernando á quien conosco y es el mismo que otorgo lo antecedente escritura y dizo, que de su libre y espontanea voluntad y por convenir asi a su enteres hiza la venta que espresa el documento que antecede el cual es otorgado por el y que la señal de cruz que hoy al calse de su nombre es de su propir puño.

En cuyo testimonio suscribe mi nombre y ponge mi sello oficial en la cuidad de los Angeles à 5 de Abril de 1851. Enmenando. Roman val.

YGNACIO DEL VALLE.

ESTADO DE CALIFORNIA,
Condado de los Angeles:

Certifico, Yo, Ygnacio del Valle, registrador del condado referido, que el documento que antecede lo entregó en esta offcina para su registro Vicente de la Osa a las diez de la mañana de hoy cinco de Abril del año de mil ocho cientos cincuenta y uno. Queda asentado en el libro primero de escrituras de traspasos é hypotecas à fajas vuelta de 142 a vuelta de 143 y se devuelve al mismo la Osa.

En cuyo testimonio, suscribe mi nombre y pongo mi sel.o oficial en la cuidad de los Angeles en la f'ha citada. Derecho de registro, seis pesos.

YGNACIO DEL VALLE.

Filed in office Sept. 1st, 1853.

GEO. FISHER, *Sec'y.*

27 *Translation of Exhibit A, T. C., annexed to the deposition of J. J. Warner.*

At the city of Los Angeles, county of same name, State of California, on this fifth day of April, one thousand eight hundred and fifty-one, I, Roman, native of the mission of San Fernando, in the State and county aforesaid, for and in consideration of the sum of one hundred and ten dollars, which I have received to my entire satisfaction from Vicente de la Osa, the receipt whereof I hereby acknowledge, have sold, granted, and conveyed all my right to the tract of land I now possess in the Rancho del Encino, which said tract of land was granted to me by the government of the depart-

ment by a title issued jointly with Francisco and Roque; and I do hereby grant, sell, and convey unto the said Vicente de la Osa, his heirs, executors, administrators, and assigns, my said right to the said tract called "del Encino" from henceforth and forever, to have and to hold in the like manner as until now I do; likewise there includes in the sale the right that I have to the piece of land which we used to sow in the said place del Encino, which right is to a half of the said sown land; and I hereby declare that I have not mortgaged nor sold to any other person my said right, but that the same is free from all encumbrances, hereby assuring the vendee that nobody shall disturb him in or bring any suit regarding his possession and demand, and that in case anybody shall so disturb him or bring a suit, I will come forth in his defence until leaving him in quiet and pacific possession. I do covenant at the same time that neither for myself nor for any other I will say anything contrary to this sale, which I wish to be real and good.

In testimony whereof, I hereby yield and relinquish all my
28 right and interests to and in the said tract of land, with all the right of uses, prescription. and privilege wherewith I have heretofore possessed it; and for the validity whereof, and as I cannot write, I put at the foot hereof a cross mark, at this city, the day and year first above written. Roque not valid. Roman is valid.

his
ROQUE + ROMAN.
mark.

STATE OF CALIFORNIA,
County of Los Angeles:

I, Ygnacio del Valle, recorder of the same county, do hereby certify that before me personally appeared Ramon, native of the mission of San Fernando, whom I know, and is the same person who executed the foregoing deed, and he stated that of his free and own accord, and as it thus suited his interests, he had made the sale mentioned in said deed which is executed by him, and that the cross mark opposite his name is of his own hand.

In testimony whereof, I signed my name and affixed my official seal, at the city of Los Angeles, the 5th day of April, 1851.

YGNACIO DEL VALLE.

STATE OF CALIFORNIA,
County of Los Angeles.

I, Ygnacio del Valle, recorder of the county aforesaid, hereby certify that the foregoing document was filed in this office, to be recorded, by Vicente de la Osa, at 10 o'clock a. m. of this 5th day of April, 1841. It is recorded in liber first of deeds of conveyan-
29 ces and mortgages, at pages 142 and 143, and the same is returned to said Osa.

In testimony whereof, I signed my name and affixed my official
[SEAL.] seal, at office, at the city of Los Angeles, on said day and year.

YGNACIO DEL VALLE.

I, George Fisher, secretary to the board of the United States land commissioners for ascertaining and settling private land claims in the State of California, do hereby certify that the foregoing is a true and correct translation of a Spanish document of the purport as above set forth, exhibited and filed in case No. 379 on the docket of said board, now on file in this office.

In testimony whereof, I have hereunto signed my name, office of the secretary of said commission, San Francisco, State of California, this 2d day of January, A. D. 1855.

GEO. FISHER, *Sec'y.*

Filed in office Jan. 2, 1855.
(Signed) GEO. FISHER, *Sec'y.*

30 *Opinion of the board, delivered by Commissioner Alpheus Felch.*

VICENTE DE LA OSA *vs.* THE UNITED STATES. } No. 379.—For the place called "Encino," in Los Angeles county, containing one square league of land.

The evidence in this case establishes—

First. A grant of land claimed by Gov. Pio Pico to the natives Roman, Francisco and Roque, on the 18th day of July, 1845.

Second. Judicial possession given, and measurement made under the grant July 24th, 1845.

Third. The cultivation and inhabitancy of the premises by the grantees.

Fourth. The conveyance by Roman of his interest in the premises to the present claimant on the 30th day of October, 1849, and another relinquishment of his right on the 5th of April, 1851.

The proof also shows that the grantee, Francisco, died, leaving a daughter, Rita, his legal representative, and that the other grantee went away some years ago, and is reported to be dead. His wife and children are still living. The petition is filed by said Osa, in behalf of the legal representatives of said Francisco and Roque, as wellas for the share purchased by himself of the grantee, Roman, and we think all should be regarded as petitioners before the commission; the said Osa claiming the undivided third part which belonged to Roman; the legal representatives of Francisco his third part; and the representatives of Roque (whose death we shall regard as proved) the remaining third.

The claim to the property thus presented is sustained by the evidence, and a decree of confirmation will be entered accordingly.

Filed in office March 20, 1855.
(Signed) GEO. FISHER, *Sec'y.*

31 *Decree of confirmation.*

VICENTE DE LA OSA
vs.
THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the claim of the said petitioners is valid, and that said Vicente de la Osa is entitled to the one undivided third part of the premises hereby confirmed; the legal representatives of Francisco, a neophyte, to one undivided third part, and the legal representatives of Roque, also a neophyte, to the remaining undivided third part. And it is therefore hereby decreed that the same be confirmed to them respectively.

The land of which confirmation is hereby made is that known by the name of Encino, which is situated in Los Angeles county, and was originally granted to Roman, Francisco and Roque, neophyte Indians, and was formerly occupied as their residence by them, to wit:

Beginning at the slope of the mountain fronting south, and running thence north five thousand varas, terminating in the plain of San Fernando, where a pole was set to serve as a landmark when the juridical possession of said land was given to said grantees under said grant; thence in a direction to the northwest five thousand varas, terminating on the same plain of San Fernando; thence in a direction to the south, so as to square the land, five thousand varas, terminating in the same mountains; thence in a direction to the east, and running over broken ground, five thousand varas, to the place of beginning, a little mountain with four walnut trees serving for a landmark; containing one square league of land, a little more or less. Reference for further description thereof be had to the grant of the same, and the
32 testimonial of judicial possession given under said grant, which are on file in this case.

ALPHEUS FELCH,
R. AUG. THOMPSON,
S. B. FARWELL,
Commissioners.

Filed in office March 20, 1855.

GEO. FISHER, *Sec'y.*

Order.

And it appearing to the satisfaction of the board that the land hereby adjudicated is situate in the northern district of California, it is hereby ordered, that two transcripts of the proceedings and of the decisions in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary, one of which transcripts shall be filed with the clerk of the United States district court for the northern district of California, and the other be transmitted to the Attorney General of the United States.

33 OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing thirty-seven pages, numbered from 1 to 37, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings, and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 379 on the docket of the said board, wherein Vicente de la Osa *et al.* are the claimants against the United States, for the place known by the name of "Encino."

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, California, [SEAL.] this twenty-sixth day of September, A. D. 1855, and of the independence of the United States the eightieth.

GEO. FISHER, *Sec'y.*

Filed 10th March, 1857.

C. SIMS, *Clerk,*
P'r J. H. COLEMAN, *Dep'ty.*

34

35 *Appeal notice.*

OFFICE OF THE ATTORNEY GENERAL OF THE U. STATES,
Washington, 10th October, 1855.

379. "Encino."—Vicente de la Osa *et al.*, claimants.

You will take notice that in the above case, decided by the commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 15th day of September, A. D. 1855, the appeal in the district court of the United States for the southern district of California will be prosecuted by the United States.

C. CUSHING, *Attorney General.*

Filed Nov. 20th, 1855.

C. E. CARR, *Clk.*

36 *Order transferring cause from north'n dist.*

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Monday, the 23d day of February, in the year of our Lord one thousand eight hundred and fifty-seven.

Present: Hon. M. Hall McAllister, circuit judge, and the honorable Ogden Hoffman, district judge.

THE UNITED STATES *ads.* V. DE LA OSA *et al.* } District court, 292.—Land com'n, 379.

It being represented to the court that the lands claimed in this case lay in the southern district of California: now, therefore, on motion of the U. S. attorney in open court, ordered by the court that the clerk of this court send to the clerk of the district court for the southern district of California said transcript, together with a certified copy of this order.

Endorsed: Filed February 23, 1857.

JOHN A. MUNROE, *Clerk*,
By W. H. CHEVERS, *Deputy*.

I, John A. Munroe, clerk of the district court of the United States for the northern district of California, do hereby certify the foregoing to be a full, true, and correct copy of the original, now on file and remaining of record in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said court this twenty-sixth day of February, A. D. 1857.

JOHN A. MUNROE, *Clerk*,
By W. H. CHEVERS, *Deputy*.

Filed March 10th, 1857.

C. SIMS, *Clerk*,
P'r J. H. COLEMAN, *Dep'ty*.

37 *Letter from clerk north'n dist. accomp. transcript.*

CLERK'S OFFICE U. S. DIST. COURT, NOR. DIST. OF CALIFORNIA,
San Francisco, February 26, 1857.

SIR: In accordance with an order made on the 23d inst. by this court, I enclose transcript, together with certified copy of the order above alluded to, in the case of Vicente de la Osa *et als. vs.* the United States, on appeal from the late board of U. S. land commissioners.

You will oblige me by forwarding your receipt for the same as soon as it is received.

Very respectfully, your ob'd't se'v't,

JOHN A. MUNROE, *Clerk*.
By W. H. CHEVERS, *Deputy*.

To C. SIMS, Esq.,
Clerk U. S. Dist. Court of Cal'a,
South'n Dist. of Cal'a, Los Angeles, Cal.

Filed 10th March, 1857.

C. SIMS, *Cl'k*,
P'r J. H. COLEMAN, *Dep'ty*.

38

39 In the district court of the United States for the southern district of California.

CITY AND COUNTY OF LOS ANGELES,
State of California.

VICENTE DE LA OSA *et al.*, appellees, *ads.*
THE UNITED STATES, appellant.
} Docket No. 392.—Transcript No. 379.

To the Hon. Isaac S. K. Ogier, judge:

The petition of Pacificus Ord, a resident of said city, county, and State, attorney of the United States for the southern district of California, who petitions in this behalf for the United States, and being present here in court, in the name and behalf of the United States, represents as follows: That heretofore, to wit, on or about the 8th day of October, A. D. 1852, Vicente de la Osa, for himself and for Aguila, widow, and Francisco Minor, son, heirs of Roque, dec'd, and Rita Minor, daughter of Francisco, dec'd, presented a petition to the commissioners to ascertain and settle the private land claims in the State of California, when sitting as a board, claiming a tract of land called "Encino," in the county of Los Angeles, State of California, which said petition is referred to for a description of the land claimed, a copy of which appears in the transcript hereafter referred to; that thereafter, to wit, on or about the 20th day of March, A. D. 1855, the said commissioners confirmed, by final decision, the said claim of said petitioner; that thereafter, to wit, on or about the 10th day of March, A. D. 1857, a duly certified transcript of the proceedings and decision of the said commissioners in said cause, and the papers and evidence on which the said decision was founded, was filed in the office of the clerk of the district court of the United States for the southern district of California, and marked No. 392, reference, to which it is prayed may be had and made part of this petition; that on or about the 15th day of September, A. D. 1855, the honorable Caleb Cushing, Attorney General of the United States, received a duly certified duplicate of said transcript of the proceedings and decision of said commissioners in said cause, and the papers and evidence on which said decision was founded; that thereafter, to wit, on the 20th day of November, A. D. 1855, the said Attorney General of the United States filed, or caused to be filed, in behalf of the United States, a notice with the clerk of said district court of the United States, that the appeal in said cause from the said decision of the said commissioners, in the district court of the United States for the southern district of California, would be prosecuted by the United States.

Your petitioner further represents that the land claimed, as aforesaid, is situate in the southern district of California, and within the jurisdiction of this honorable court.

Your petitioner further represents and insists that the said claim is invalid, and the said decision of said commissioners is erroneous, and ought to be reversed, revised and set aside, for many errors and imperfections of law and evidence, apparent in said cer-

40 tified transcript of the proceedings and decisions of said commissioners in said cause, filed and appealed from as aforesaid. And your petitioner denies all and singular, each and every allegation in the said petition of said claimant, presented as aforesaid to said commissioners. And your petitioner further denies that the said claimant has any valid right or title to said land claimed as aforesaid, or any part thereof.

And no sufficient proof having been made of the allegations in said petition to said commissioners, or in support of the said claim, no decision confirming the same should have been made by said commissioners; but the said claim should have been rejected by them. And the said claimant having no valid right or title derived from the Spanish or Mexican governments to the land claimed as aforesaid, the lawful right and title in and to the said land was acquired by and it now belongs to the United States by virtue of conquest, and the treaty of peace, friendship, limits, and settlement, between the United States and the republic of Mexico, made at the city of Guadalupe Hidalgo, February 2d, A. D. 1848.

Wherefore the said Pacificus Ord, attorney of the United States for the southern district of California, for and in behalf of the United States, by reason of the premises, and in pursuance of the act of Congress entitled "An act to ascertain and settle the private land claims in the State of California," approved March 3d, A. D. 1851, and the laws and statutes in such case made and provided, prays that the said claimants or their attorneys may be served with copies of this petition; and that this honorable court will review the said decision of said commissioners, and reverse the same, and decide on the validity of the said claim, and decree the alleged title to be invalid, with costs and general relief.

P. ORD,
Attorney of the United States for the Southern District of California.

Filed January 11th, 1858.

C. SIMS, *Cl'k*,
P'r J. H. COLEMAN, *Dep'ty.*

41

43 *Summons.*

UNITED STATES OF AMERICA,
Southern District of California, ss:

The President of the United States to Vicente de la Osa *et al.*, greeting:

Take notice that a petition, a copy of which is herewith served upon you, has been filed against you, and each of you, in the district court of the United States in and for the southern district of California, on the 11th day of January, in the year of our Lord one thousand eight hundred and fifty-eight, at the city and county of Los Angeles, in said district, by P. Ord, U. S. att'y for the S. dist. of Cal'a, praying said court to review the decision of the U. S. board of commissioners, rendered in your favor on the 20th day of March,

1855, for the tract of land called "Encino," in the county of Los Angeles; and that each of you are required to appear at said court, in said city, within ten days after the service hereof, if served on you in the county of Los Angeles, and within twenty days if served on you in the county of San Diego or San Bernardino, and within forty days if served on you in any other county of said State, exclusive of the day of service, and answer said petition, or that judgment by default will be taken against you, and each of you, and the prayer of the said petitioner will be granted with costs.

In witness whereof, I have hereunto set my hand and affixed the seal of the said court this 11th day of January, in the year [SEAL.] of our Lord one thousand eight hundred and fifty-eight, at Los Angeles aforesaid.

C. SIMS, *Clerk*,
P'r J. H. COLEMAN *Dep'ty*.

44 I served this summons, along with the proper copy of the petition, upon Vicente de la Osa, at Los Angeles, in the southern district of California, on the 19th day of January, A. D. 185 .

JAMES C. PENNIE, *Marshal*.

Filed this 19th day of January, 1858.

C. SIMS, *Clk*,
P'r J. H. COLEMAN, *Dep'ty*.

45 *Answer.*

In the district court of the United States for the southern district of California.

VICENTE DE LA OSA *et al.*, appellees, *ads.* THE UNITED STATES, appellants. } Case No. 392, "El Encino."—Transcript 379.

And now comes the appellee, Vicente de la Osa, in person, representing all the interests in above cause, and for answer to the petition of review, filed in this case by the appellants, says: That his title to the lands claimed in this case called "El Encino" is good and valid. Wherefore he prays the judgment of this hon'le court, that the decision of the United States board of land commissioners may be affirmed, and the title of the appellees to said land may be decreed to be valid, and for their costs therein expended, and such other and further relief as shall be agreeable to equity and good conscience, or the nature of their case may require.

VICENTE DE LA OSA,
In person, and representing all the interests in the case.

I have served this answer upon P. Ord, U. S. attorney, by delivering to him a true copy of this answer, at the city of Los Angeles, Feb'y 1st, 1858.

JAMES C. PENNIE,
U. S. Marshal.

Return filed 1st Feb., 1858.

C. SIMS, *Cl'k*,
P'r J. H. COLEMAN, *Dep'ty.*

Filed this 27 January, A. D. 1858.

C. SIMS, *Cl'k.*
P'r J. H. COLEMAN, *Dep'ty.*

46

47 *Decree.*

In the district court of the United States, southern district of California.—December term, A. D. 1857.

VICENTE DE LA OSA *et al.*, appellees, *ads.*
THE UNITED STATES, appellants. } Case No. 392.—Transcript 379, "El Encino."

This cause coming on to be heard on appeal from the decision of the United States board of land commissioners to ascertain and settle the private land claims in the State of California, under an act of Congress approved 3d March, 1851, upon a transcript of the proceedings and decision of said board, and of the papers and evidence upon which said decision was founded, and it appearing to the court that said transcript and the notice of appeal have been duly filed according to law, and counsel for the respective parties having been heard, it is ordered, adjudged, and decreed that the decision of said board be, and hereby is, affirmed. And it is further adjudged and decreed that the claim of the appellees is good and valid, and the same is hereby confirmed to them as follows: The land of which confirmation is hereby made is situate in the county of Los Angeles, southern district of California, called "El Encino," containing one square league, beginning at the slope of the mountain fronting south, running thereon north five thousand varas, terminating in the plain of San Fernando, where a pole was set to serve as a landmark when the juridical possession of said land was given to said grantees under said grant; thence in a direction to the northwest five thousand varas,
48 terminating on the same plain of San Fernando; thence in a direction to the south, so as to square the land five thousand varas, terminating in the same mountains; thence in a direction to the east, and running over broken ground five thousand varas, to the place of beginning, a little mountain, with four walnut trees serving for a landmark.

Reference being had to the grant of the same, and the testimonial

of judicial possession given under said grant, which are on file in this case.

Thus done and signed in open court this 8th day of February, A.D. 1858.

ISAAC S. K. OGIER,
U. S. Dist. Judge for the S. Dist. of Cal'a.

Filed this 8th February, A. D. 1858.

C. SIMS, *Cl'k*,
P'r J. H. COLEMAN, *Dep'ty.*

49 *Order of appeal to Supreme Court.*

In the United States district court, southern district of California.—Regular December term, A. D. 1857.

MARCH 15*th*, *A. D.* 1858.

Present: Hon'l Isaac S. K. Ogier, judge.

VICENTE DE LA OSA *et al.*, appellees, *ads.*
THE UNITED STATES, appellant. } No. 392, "El Encino."

On motion of E. J. C. Kewen, acting U. S. dist. att'y, it is ordered that an appeal be allowed the United States in the above cause.

50

51 United States district court, south'n dist., Cal'a.

CLERK'S OFFICE, MONTEREY.

I, John O. Wheeler, clerk of the United States district court for the south'n dist. of Cal'a, do hereby certify the foregoing fifty pages, numbered from 1 to 50, both inclusive, to contain a full, true, and correct copy of the record of the proceedings, and of the decision of the said court, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 392 upon the docket of said court, wherein Vicente de la Osa *et al.* is the claimant, against the United States, for the place known by the name of "El Encino."

In testimony whereof, I hereunto set my hand and affix the seal of said court, at Monterey, this the 30th day of June, A. D. 1863.

[SEAL.]

JOHN O. WHEELER,
Cl'k U. S. Dist. C't, S. Dist., Cal'a.